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**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA,  
SOUTHERN DIVISION**

LISA LIBERI, et al,	:	Case No.: 8:11-cv-00485 AG (AJW)
	:	
Plaintiffs,	:	<b>[Honorable Andrew J. Guilford]</b>
	:	
vs.	:	<b>PLAINTIFFS RESPONSE TO THIS</b>
	:	<b>COURT'S JANUARY 23, 2013</b>
ORLY TAITZ, et al,	:	<b>ORDER TO SHOW CAUSE ISSUED</b>
	:	<b>UPON ORLY TAITZ</b>
Defendants.	:	
	:	Location: Courtroom 10D

Pursuant to this Court's Order to Show Cause issued upon Orly Taitz on January, 23, 2013, Plaintiffs are filing the attached partial Opposition<sup>1</sup> to Orly Taitz's Ex Parte Motion to Compel; and the Court's Minute Order relating to the same in the matter of Orly Taitz v. Barack Obama, et al, Orange County Superior Court Case No. 30-2012-00582135. The partial Opposition is attached as Exb. A, pp. 2-8; and the Court's Minute Order is attached as Exb. B, pp. 9-10.

Respectfully submitted,

Dated: February 4, 2013

/s/ Philip J. Berg

Philip J. Berg, Esquire

<sup>1</sup> Plaintiffs are filing partial documents to comply with the Court's 10 page limit. The four (4) page Memorandum dismissing Ms. Taitz's case is not included due to the 10 page limit.

1 D. JAY RITT, State Bar No. 138661  
2 **RITT, TAI, THVEDT & HODGES**  
3 A Limited Liability Partnership  
4 65 North Raymond Avenue, Suite 320  
Pasadena, California 91103  
Tel: (626) 685-2550  
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5 Attorneys for Third-Party Respondent  
6 **OCCIDENTAL COLLEGE**

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

NOV 01 2012

ALAN CARLSON, Clerk of the Court

*R. Simmer*  
BY R. SIMMER

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF ORANGE - CENTRAL DIVISION**

11 ORLY TAITZ,

12 Plaintiff,

13 v.

14 BARACK OBAMA, DIANE  
15 FEINSTEIN, ELIZABETH EMKEN,  
16 DAN HUGHES, RICK WILLIAMS, in  
their capacity as candidates on the ballot,  
JOHN DOE, JANE DOE 1-100,

17 Defendants.

Case No. 30-2012-00582135

[Assigned to: Hon. Charles Marginis - Dept. C-19]

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN OPPOSITION TO  
EX PARTE APPLICATION OF  
PLAINTIFF ORLY TAITZ FOR  
MOTION TO COMPEL PRODUCTION  
OF DOCUMENTS FROM THIRD  
PARTY RESPONDENT OCCIDENTAL  
COLLEGE; IN SUPPORT OF MOTION  
TO QUASH SUBPOENA; AND IN  
SUPPORT OF REQUEST FOR  
SANCTIONS IN THE AMOUNT OF  
\$4,000**

Date: November 1, 2012

Time: 1:30 p.m.

Dept: C-19

1 **I. PREFATORY STATEMENT**

2  
3 Third-party respondent Occidental College files this opposition to Plaintiff's self-  
4 styled *ex parte* 'Motion to Compel Production of Documents,' because the motion is  
5 blatantly vexatious. Plaintiff has not served a proper subpoena – she has, in fact, failed to  
6 comply with nearly every conceivable requirement for the issuance of a valid subpoena.  
7 The subpoena seeks patently private and protected information; it purports to provide less  
8 than a day's notice when at least twenty days are required; it was served via e-mail last  
9 night; and it is not accompanied by the required Notice of Consumer Privacy Rights. Even  
10 putting aside the truly staggering and wholesale defectiveness of the subpoena itself,  
11 Plaintiff's attempt to obtain records and testimony from Occidental College via an *ex parte*  
12 application on less than a day's notice is itself an abuse of process. To make the point even  
13 clearer, Plaintiff's *ex parte* application was prepared and served even before she prepared  
14 and served the subpoena itself – this must be close to a first.

15  
16 Plaintiff, apparently a well-known and vexatious litigant, is plainly using this  
17 litigation and this particular tactic to try to garner publicity, to smear the President of the  
18 United States, a former student of Occidental College and to harass and bother the  
19 President's former school. This Court should deny Plaintiff's "ex parte motion," quash the  
20 subpoena itself, and award sanctions in the amount of \$4,000.

21  
22 **II. STATEMENT OF FACTS AND PROCEDURAL HISTORY**

23  
24 On or about July 9, 2012, Plaintiff filed this action, apparently purporting to  
25 challenge under various provisions of the California *Elections Code* the results of the  
26 primary election for United States Senate held on June 5, 2012. Despite her contention that  
27 her role in the primary election of 2012 was as a candidate for Senate in the Republican  
28 primary, Plaintiff alleges, among other things, that President Barack Obama may not and

1 cannot be certified as the winner in the State of California's Democratic primary election for  
2 President, based on various, lengthy and rambling contentions regarding his citizenship and  
3 eligibility. (See Affidavit of Elections Challenge Under Elections Code 16100, 16101,  
4 16420-16421, filed on or about July 9, 2012, Par. 2 and Relief Requested, pp. 6-7).<sup>1</sup>

5  
6 Plaintiff's pleading purports to name President Barack Obama, Senator Diane  
7 Feinstein, and three other individuals as nominal defendants. Third-party respondent  
8 Occidental College is not a named defendant and has never been a named defendant in this  
9 action. (Declaration of D. Jay Ritt ("Ritt Decl."), Par. 2).

10  
11 Nonetheless, from the docket, it appears that Plaintiff has never properly served any  
12 named defendant, and no defendant has appeared in this action. Thus, this action has never  
13 at any point been at issue as to any named defendant at any time. At some point, it appears  
14 Plaintiff dismissed her own action, removed it on her own initiative to federal district court,  
15 where the district court then dismissed the case out of hand, and Plaintiff returned to this  
16 Court. (Ritt Declaration, Par. 2).

17  
18 On or about October 25, 2012, Plaintiff appeared in this Court seeking to enter  
19 default against the unserved defendants in this action. There were no appearances for any  
20 defendants. This Court denied Plaintiff's application for a default hearing due to improper  
21 notice, holding that the defendants had not been validly served with any pleading of any sort  
22 (including but not limited to the operative complaint or the request for default) and the Court  
23 therefore lacked jurisdiction. (See Court's Minute Order of October 25, 2012 re: Ex Parte  
24 Application – Other for Default; Ritt Decl., Par. 3.)

25  
26  
27 <sup>1</sup> According to publicly available documents, Plaintiff was a losing candidate for the  
28 Republican Senatorial position in the June 5, 2012 California primary election. President Barack  
Obama was the prevailing candidate in the Democratic Presidential primary that same day. (See  
Declaration of D. Jay Ritt "Ritt Decl.", Par. []).

1           Apparently, on or about October 29, 2012, Plaintiff then filed a lengthy *ex parte*  
2 application seeking to obtain records from third-party Occidental College relating to  
3 President Obama. The document is entitled "Motion to Compel Production of Documents  
4 from a Third Party Witness Under California Code of Civil Procedure 2031.310," and seeks  
5 to compel, among other things, that Occidental College produce the "student application by  
6 candidate Barack Obama of his application and registration to Occidental College, located in  
7 Los Angeles, California."<sup>2</sup> (Ritt Decl., Par. 4.)

8  
9           As of October 29, 2012, Occidental has not been served with a subpoena duces  
10 tecum; indeed, it appeared that no subpoena had even been prepared or served, nor had  
11 Occidental received even an informal request for the records. Occidental had been provided  
12 no notice of the hearing, nor a copy of any of the pleadings. Occidental had no knowledge  
13 whatsoever of the dispute, the relief requested or the documents sought by Plaintiff. The  
14 "motion" itself which was over 120 pages long with exhibits was not served upon  
15 Occidental. (Ritt Decl., Par. 5.)

16  
17           It appears from the Court's minute order of that date that, in addition to filing her "ex  
18 parte" motion, Plaintiff also appeared in Court on October 29, 2012, as part of a scheduled  
19 Status Conference and with regard to her *Ex Parte* Application, including, apparently, the  
20 application relating to Occidental. The Court's minute order reflects that it was continuing  
21 the Status Conference and Plaintiff's *Ex Parte* Applications to November 1, 2012, at 1:30  
22 p.m., and that Plaintiff was to give notice. (Court's Minute Order of October 29, 2012 re:  
23 Status Conference). (Ritt Decl., Par. 6.)

24  
25           On or about October 30, 2012, Occidental's General Counsel, Carl A. Botterud,  
26 received a copy of a purported *ex parte* application for a motion to compel production of

27  
28           <sup>2</sup> The "motion" also purported seek production of a video tape from the Los Angeles  
Times. This appears to be unrelated to the demand directed towards Occidental College.

1 documents pursuant to Cal. *Code of Civil Procedure* Section 2031.310. That motion was far  
2 less voluminous than the 123 page opus filed on October 29, 2012, but appeared to be  
3 similar in nature and sought similar relief. (Declaration of Carl A. Botterud ("Botterud  
4 Decl."), Par. 2, Exh. A).

5  
6 On October 31, 2012, after reviewing the *ex parte* application, Mr. Botterud spoke  
7 with Plaintiff informing her of Occidental's intent to appear and oppose her application as  
8 frivolous and unwarranted under law. Among the litany of procedural and substantive  
9 defects with Plaintiff's application was the fact that Plaintiff had never bothered to serve an  
10 actual subpoena on Occidental, a fact which Mr. Botterud pointed out to Plaintiff during  
11 their discussion. Mr. Botterud informed Plaintiff that Occidental intended to ask the Court  
12 for sanctions. Mr. Botterud confirmed their telephone conversation in an e-mail to which  
13 Plaintiff later replied, a reply which unlawfully included President Obama's full social  
14 security number (that has been redacted in this pleading). (Botterud Decl., Par. 3, Exh. B).

15  
16 At 3:38 p.m. on October 31, 2012, Plaintiff emailed a purported subpoena duces  
17 tecum, a copy of which is attached to Mr. Botterud's declaration as Exhibit C. The  
18 subpoena purports to demand that Occidental designate a witness to appear for deposition at  
19 the Court on November 1, 2012, and to produce "the college application, registration  
20 financial aid records for Barack Hussein Obama aka Barry Obama aka Barry Soetoro, aka  
21 Barry Soebarkah [sic]." The patently improper and non-sensical subpoena thus was served  
22 on less than twenty four hours' notice, by e-mail and without any consumer privacy  
23 protections. After receiving the "subpoena," Occidental's conclusion that Plaintiff's tactic is  
24 sanctionable has only hardened. (Botterud Decl., Par. 3, Exh. C).

25  
26 During their telephone conversation of October 31, 2012, Plaintiff told Mr. Botterud  
27 that he was "committing treason" and being a "traitor" to his country in refusing to provide  
28 the demanded information regarding President Obama. Plaintiff posted on her public

1 website her threat of criminal action against Mr. Botterud for "committing treason and  
2 obstructing justice." (Botterud Decl., Par. 4, Exh. D.)

3  
4 At or about 7:00 p.m., Occidental College retained outside counsel who prepared  
5 these papers, and intends to appear at the hearing scheduled for today at 1:30 p.m. Counsel  
6 has spent approximately five hours reviewing documents, speaking with counsel and  
7 drafting documents. Counsel anticipates spending another five to six hours traveling to  
8 Court, and appearing at the hearing. At his regular rate of \$395 per hour, the total costs  
9 incurred will easily exceed \$4,000. Accordingly, Occidental College will seek sanctions  
10 from Plaintiff in that amount. (Ritt Decl., Par. 8).

11  
12 **III. LEGAL ARGUMENT**

13  
14 **A. Plaintiff Has Failed to Serve Occidental College with a Proper Subpoena,**  
15 **Which Is a Prerequisite to Any Relief**

16  
17 The first and self-evident defect with Plaintiff's requested relief is that she has failed  
18 to serve Occidental with a proper subpoena under the California Code of Civil Procedure.  
19 As a third-party, Occidental may only be required to appear for deposition and to produce  
20 documents upon the service of a timely and properly tailored subpoena duces tecum under  
21 *California Code of Civil Procedure* Section 2020.020.

22  
23 Any such subpoena requires at least twenty (20) days' notice after issuance.  
24 *California Code of Civil Procedure* Section 2020.510. The subpoena must be properly  
25 served under the Code; mail service is not proper, it must be personally served. *California*  
26 *Code of Civil Procedure* Section 2020.220(b).

1 **IV. CONCLUSION**

2  
3 For the foregoing reasons, Occidental College requests that this Court deny Plaintiff's  
4 *ex parte* motion, quash her subpoena upon Occidental College, and issue an award of  
5 sanctions in the amount of \$4000.

6  
7  
8 DATED: November 1, 2012

Respectfully submitted,

9 RITT, TAI, THVEDT & HODGES  
10 A Limited Liability Partnership

11  
12 D. JAY RITT  
13 Attorney for Third-Party Respondent  
14 OCCIDENTAL COLLEGE  
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**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER**

**MINUTE ORDER**

DATE: 11/01/2012

TIME: 01:30:00 PM

DEPT: C19

JUDICIAL OFFICER PRESIDING: Charles Margines

CLERK: Nanci Turner-Mitani

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: Richard A Simmer

CASE NO: **30-2012-00582135-CU-PT-CJC** CASE INIT.DATE: 07/09/2012

CASE TITLE: **Taitz vs Obama**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Petitions - Other

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EVENT ID/DOCUMENT ID: 71589475,91270133

**EVENT TYPE:** Ex Parte

MOVING PARTY: Orly Taitz

CAUSAL DOCUMENT/DATE FILED: Ex Parte Application - Other to compel production, 10/29/2012

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EVENT ID/DOCUMENT ID: 71589476,91270136

**EVENT TYPE:** Ex Parte

MOVING PARTY: Orly Taitz

CAUSAL DOCUMENT/DATE FILED: Ex Parte Application - Other to stay, 10/29/2012

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EVENT ID/DOCUMENT ID: 71590092

**EVENT TYPE:** Status Conference

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**APPEARANCES**

Orly Taitz, self represented Plaintiff, present.

D. Jay Ritt from the Law Offices of Ritt, Tai, Thvedt & Hodges, LLP present representing Third Party, Occidental College

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Ex-Parte application for **1.)** Motion to Compel Production of Documents from a Third Party Witnesses **2.)** Stay of Certification in General 2012 Election requested by Plaintiff.

The Court having fully considered the arguments of all parties, both written and oral, as well as the evidence presented on **1.)** Plaintiffs Application for motion to compel production of documents from third party witness, now rules as follows:

Motion DENIED with prejudice.

Third-Party Respondent, Occidental College request for sanctions granted. Court orders sanctions against Plaintiff, Dr. Orly Taitz in the sum of \$4,000 payable to Ritt, Tai, Thvedt & Hodges Attorney Trust Account. Payment of sanctions to be paid within 30 days.

Defendant will give notice.

Exb. "B" - Pg. 9

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DATE: 11/01/2012

MINUTE ORDER

DEPT: C19

Page 1

Calendar No.

Plaintiff's oral request to stay imposition of sanctions denied.

The Court having fully considered the arguments of plaintiff, both written and oral, as well as the evidence presented on 2.) Plaintiffs motion for stay of certification in general 2012 election, now rules as follows:

Motion DENIED.

Plaintiffs request to have certain witnesses testify at this hearing denied, and to set matter for trial premature.

Plaintiffs request to enter default is taken under submission.

Exb. "B" - Pg. 10